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UNITED STATES OF AMERICA
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13 UNITED STATES DISTRICT COURT

14 FOR THE CENTRAL DISTRICT OF CALIFORNIA

15 UNITED STATES OF AMERICA,

16 Plaintiff,

17 v.

18 LU ZHANG,

19 Defendant.
20
21

No. CR 2:23-00596-RGK-1

[PROPOSED] PROTECTIVE ORDER
REGARDING DISCOVERY CONTAINING
PERSONAL IDENTIFYING INFORMATION,
PRIVACY ACT INFORMATION, AND
COOPERATING WITNESS INFORMATION

22 The Court has read and considered the parties' Stipulation for
23 a Protective Order Regarding Discovery Containing Personal
24 Identifying Information, Privacy Act Information, and Confidential
25 Informant/Cooperating Witness Information, filed by the government
26 and defendant LU ZHANG ("defendant") in this matter on January 29,
27 2024, which this Court incorporates by reference into this order,
28 and FOR GOOD CAUSE SHOWN the Court hereby FINDS AND ORDERS as

1 follows:

2 1. The government's discovery in this case relates to
3 defendant's alleged crimes, that is, Conspiracy to Commit Money
4 Laundering, in violation of 18 U.S.C. § 1956(h); Concealment Money
5 Laundering, in violation of 18 U.S.C. § 1956(a)(1)(B)(i); and
6 International Money Laundering, in violation of 18 U.S.C. §
7 1956(a)(2)(B)(i).

8 2. A protective order for the discovery is necessary so that
9 the government can produce to the defense materials regarding
10 confidential informants or cooperating witnesses who participated in
11 the government's investigation and who may testify at trial.
12 Because these materials could be used to identify the confidential
13 informants or cooperating witnesses, the Court finds that the
14 unauthorized dissemination or distribution of the materials may
15 compromise the ability of such persons to participate effectively in
16 future investigations in an undercover capacity and/or may expose
17 him/her to potential safety risks.

18 3. A protective order for the discovery is also necessary so
19 that the government can produce to the defense materials containing
20 third parties' PII. The Court finds that disclosure of this
21 information without limitation risks the privacy and security of the
22 information's legitimate owners. Because the government has an
23 ongoing obligation to protect third parties' PII, the government
24 cannot produce to defendant an unredacted set of discovery
25 containing this information without this Court entering the
26 Protective Order. Moreover, PII makes up a significant part of the
27 discovery in this case and such information itself, in many
28 instances, has evidentiary value. If the government were to attempt

1 to redact all this information in strict compliance with Federal
2 Rule of Criminal Procedure 49.1, the Central District of
3 California's Local Rules regarding redaction, and the Privacy Policy
4 of the United States Judicial Conference, the defense would receive
5 a set of discovery that would be highly confusing and difficult to
6 understand, and it would be challenging for defense counsel to
7 adequately evaluate the case, provide advice to defendant, or
8 prepare for trial.

9 4. An order is also necessary because the government intends
10 to produce to the defense materials that may contain information
11 within the scope of the Privacy Act, 5 U.S.C. § 552a ("Privacy Act
12 Information"). The Court finds that, to the extent that these
13 materials contain Privacy Act information, disclosure is authorized
14 pursuant to 5 U.S.C. § 552a(b)(11).

15 5. The purpose of this Protective Order is therefore to
16 (a) allow the government to comply with its discovery obligations
17 while protecting this sensitive information from unauthorized
18 dissemination, and (b) provide the defense with sufficient
19 information to adequately represent defendant.

20 6. Accordingly, the discovery that the government will
21 provide to defense counsel in the above-captioned case will be
22 subject to this Protective Order, as follows:

23 a. As used herein, "CI Materials" includes any
24 information relating to a confidential informant's or cooperating
25 witness's prior history of cooperation with law enforcement, prior
26 criminal history, statements, or any other information that could be
27 used to identify a confidential informant or cooperating witness,
28 such as a name, image, address, date of birth, or unique personal

1 identification number, such as a Social Security number, driver's
2 license number, account number, or telephone number.

3 b. As used herein, "PII Materials" includes any
4 information that can be used to identify a person, including a name,
5 address, date of birth, Social Security number, driver's license
6 number, telephone number, account number, email address, or personal
7 identification number.

8 c. "Confidential Information" refers to any document or
9 information containing CI Materials or PII Materials that the
10 government produces to the defense pursuant to this Protective Order
11 and any copies thereof.

12 d. "Defense Team" includes (1) defendant's counsel of
13 record ("defense counsel"); (2) other attorneys at defense counsel's
14 law firm who may be consulted regarding case strategy in this case;
15 (3) defense investigators who are assisting defense counsel with
16 this case; (4) retained experts or potential experts; and
17 (5) paralegals, legal assistants, and other support staff to defense
18 counsel who are providing assistance on this case. The Defense Team
19 does not include defendant, defendant's family members, or any other
20 associates of defendant.

21 e. The government is authorized to provide defense
22 counsel with Confidential Information marked with the following
23 legend: "CONFIDENTIAL INFORMATION -- CONTENTS SUBJECT TO PROTECTIVE
24 ORDER." The government may put that legend on the digital medium
25 (such as DVD or hard drive) or simply label a digital folder on the
26 digital medium to cover the content of that digital folder. The
27 government may also redact any PII contained in the production of
28 Confidential Information.

1 f. If defendant objects to a designation that material
2 contains Confidential Information, the parties shall meet and
3 confer. If the parties cannot reach an agreement regarding
4 defendant's objection, defendant may apply to this Court to have the
5 designation removed.

6 g. Defendant and the Defense Team shall use the
7 Confidential Information solely to prepare for any pretrial motions,
8 plea negotiations, trial, and sentencing hearing in this case, as
9 well as any appellate and post-conviction proceedings.

10 h. The Defense Team shall not permit anyone other than
11 the Defense Team to have possession of Confidential Information,
12 including defendant, while outside the presence of the Defense Team.

13 i. Notwithstanding the above, defendant may see and
14 review CI Materials only in the presence of defense counsel, and
15 defense counsel shall ensure that defendant is never left alone with
16 any CI Materials. At the conclusion of any meeting with defendant
17 at which defendant is permitted to view CI Materials, defendant must
18 return any CI Materials to defense counsel, who shall take all such
19 materials with counsel. Defendant may not take any CI Materials out
20 of the room in which defendant is meeting with defense counsel. At
21 no time, under no circumstance, will any Confidential Information be
22 left in the possession, custody, or control of defendant, regardless
23 of defendant's custody status.

24 j. Defendant may review PII Materials only in the
25 presence of a member of the Defense Team, who shall ensure that
26 defendant is never left alone with any PII Materials. At the
27 conclusion of any meeting with defendant at which defendant is
28 permitted to view PII Materials, defendant must return any PII

1 Materials to the Defense Team, and the member of the Defense Team
2 present shall take all such materials with him or her. Defendant
3 may not take any PII Materials out of the room in which defendant is
4 meeting with the Defense Team.

5 k. Defendant may see and review Confidential Information
6 as permitted by this Protective Order, but defendant may not copy,
7 keep, maintain, or otherwise possess any Confidential Information in
8 this case at any time. Defendant also may not write down or
9 memorialize any data or information contained in the Confidential
10 Information.

11 l. The Defense Team may review Confidential Information
12 with a witness or potential witness in this case, including
13 defendant. Defense counsel must be present whenever any CI
14 Materials are being shown to a witness or potential witness. A
15 member of the Defense Team must be present if PII Materials are
16 being shown to a witness or potential witness. Before being shown
17 any portion of Confidential Information, however, any witness or
18 potential witness must be informed of, and agree in writing to be
19 bound by, the requirements of the Protective Order. No member of
20 the Defense Team shall permit a witness or potential witness to
21 retain Confidential Information or any notes generated from
22 Confidential Information.

23 m. The Defense Team shall maintain Confidential
24 Information safely and securely, and shall exercise reasonable care
25 in ensuring the confidentiality of those materials by (1) not
26 permitting anyone other than members of the Defense Team, defendant,
27 witnesses, and potential witnesses, as restricted above, to see
28 Confidential Information; (2) not divulging to anyone other than

1 members of the Defense Team, defendant, witnesses, and potential
2 witnesses, the contents of Confidential Information; and (3) not
3 permitting Confidential Information to be outside the Defense Team's
4 offices, homes, vehicles, or personal presence. CI Materials shall
5 not be left unattended in any vehicle.

6 n. To the extent that defendant, the Defense Team,
7 witnesses, or potential witnesses create notes that contain, in
8 whole or in part, Confidential Information, or to the extent that
9 copies are made for authorized use by members of the Defense Team,
10 such notes, copies, or reproductions become Confidential Information
11 subject to the Protective Order and must be handled in accordance
12 with the terms of the Protective Order.

13 o. The Defense Team shall use Confidential Information
14 only for the litigation of this matter and for no other purpose.
15 Litigation of this matter includes any appeal filed by defendant and
16 any motion filed by defendant pursuant to 28 U.S.C. § 2255. In the
17 event that a party needs to file Confidential Information with the
18 Court or divulge the contents of Confidential Information in court
19 filings, the filing should be made under seal. If the Court rejects
20 the request to file such information under seal, the party seeking
21 to file such information publicly shall provide advance written
22 notice to the other party to afford such party an opportunity to
23 object or otherwise respond to such intention. If the other party
24 does not object to the proposed filing, the party seeking to file
25 such information shall redact any CI Materials or PII Materials and
26 make all reasonable attempts to limit the divulging of CI Materials
27 or PII Materials.

1 p. Any Confidential Information inadvertently produced
2 in the course of discovery prior to entry of the Protective Order
3 shall be subject to the terms of this Protective Order. If
4 Confidential Information was inadvertently produced prior to entry
5 of the Protective Order without being marked "CONFIDENTIAL
6 INFORMATION -- CONTENTS SUBJECT TO PROTECTIVE ORDER," the government
7 shall reproduce the material with the correct designation and notify
8 defense counsel of the error. The Defense Team shall take immediate
9 steps to destroy the unmarked material, including any copies.

10 q. If any Confidential Information contains both CI
11 Materials and another category of Confidential Information, the
12 information shall be handled in accordance with the CI Materials
13 provisions of this Protective Order.

14 r. Confidential Information shall not be used by any
15 member of the defense team, in any way, in any other matter, absent
16 an order by this Court. All materials designated subject to the
17 Protective Order maintained in the Defense Team's files shall remain
18 subject to the Protective Order unless and until such order is
19 modified by this Court. Within 30 days of the conclusion of
20 appellate and post-conviction proceedings, defense counsel shall
21 return CI Materials to the government or certify that such materials
22 have been destroyed. Upon request by the government, defense
23 counsel shall return all PII Materials, certify that such materials
24 have been destroyed, or certify that such materials are being kept
25 pursuant to the California Business and Professions Code and the
26 California Rules of Professional Conduct.

27 s. In the event that there is a substitution of counsel
28 prior to when such documents must be returned, new defense counsel

1 must be informed of, and agree in writing to be bound by, the
2 requirements of the Protective Order before defense counsel
3 transfers any Confidential Information to the new defense counsel.
4 New defense counsel's written agreement to be bound by the terms of
5 the Protective Order must be returned to the Assistant U.S.
6 Attorneys assigned to the case. New defense counsel then will
7 become the Defense Team's custodian of materials designated subject
8 to the Protective Order and shall then become responsible, upon the
9 conclusion of appellate and post-conviction proceedings, for
10 (1) returning to the government, certifying the destruction of, or
11 retaining pursuant to the California Business and Professions Code
12 and the California Rules of Professional Conduct all PII Materials,
13 and (2) returning to the government or certifying the destruction of
14 all CI Materials.

15 t. Defense counsel shall advise defendant and all
16 members of the Defense Team of their obligations under the
17 Protective Order and ensure their agreement to follow the Protective
18 Order, prior to providing defendant and members of the Defense Team
19 with access to any materials subject to the Protective Order.

20 IT IS SO ORDERED.

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22
23 _____
DATE

HONORABLE R. GARY KLAUSNER
UNITED STATES DISTRICT JUDGE

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25 Presented by:

26
27 /s/ Maxwell Coll
MAXWELL COLL
Assistant United States Attorney
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